IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1719 OF 2005

Prakash Vasant Ratnaparkhi ... Petitioner

Vs.

The Commissioner,
Central Excise, Mumbai and Ors. ... Respondents

Mr. U.S.R. Singh for Petitioner.

Mr.N.D. Sharma with Mr.Girish Kulkarni for Respondents.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA,JJ.
DATED: OCTOBER 03, 2006

P.C.:

. The Petitioner an inspector in the Central Excise Deptt is being chargesheeted for the charges of bribery. The present petition by the Petitioner is to stop the disciplinary proceedings on the ground that the Petitioner is being prosecuted in the criminal proceedings. It is therefore, submitted that once the criminal prosecution is launched, the department should not proceed with the departmental enquiry. Secondly it is contended that the alleged charge is five years old and there being a long delay, the disciplinary proceedings also should not be proceeded with. The learned counsel has drawn our attention to various judgments and circulars.

. The law now is well settled by the pronouncements

of the Supreme Court that it is open to the Disciplinary authority to proceed with the departmental proceedings even when the criminal case is being prosecuted. Officers who are chargesheeted for bribery cannot claim an immunity from disciplinary proceedings. They cannot be allowed to take advantage of long delay of criminal trials and in the meantime to get benefit of subsistence allowance and take advantage of the fact that the witnesses may not be available. We are clearly of the opinion that in such matters it is the bounden duty of the respondent state considering the moral degeneration in Departments like Central Excise, that whenever officers are involved in charges like bribery, they should proceed with the disciplinary proceedings unless there are strong circumstances which the disciplinary authority finds, that the disciplinary proceedings should not be proceeded with. In such a case, the Disciplinary authority must record his personal reasons in writing as to why the departmental proceedings should not be proceeded with. Mere pendency of criminal proceedings by themselves is no good reason to stop the disciplinary proceedings.

. We do not find this to be a case where proceedings should be stayed. The period of five years is not such a long period warranting that the

respondent state should not proceeded with the disciplinary proceedings. In our opinion, therefore, it is open to the respondent state to proceed with the departmental proceedings. Hence, we are not inclined to interfere in the exercise of our extra ordinary jurisdiction. Petition dismissed.

(ANOOP V. MOHTA,J.) **(F.I.REBELLO, J.)**